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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 CENTEX HOMES, a Nevada general
partnership,

11 Plaintiff,

12 v.

13 ZURICH SPECIALTIES LONDON
14 LIMITED, a New York corporation;
15 ASSURANCE COMPANY OF AMERICA,
an Illinois corporation; NORTHERN
16 INSURANCE COMPANY OF NEW YORK,
an Illinois corporation; ST. PAUL FIRE AND
17 MARINE INSURANCE COMPANY, a
Connecticut corporation; UNIONAMERICA
18 INSURANCE COMPANY LIMITED,
successor in interest to ST. PAUL
19 REINSURANCE COMPANY LIMITED, a
London corporation,

20 Defendants.
21

Case No.

CENTEX HOMES' COMPLAINT FOR:

(1) BREACH OF CONTRACT;

**(2) BREACH OF THE IMPLIED
COVENANT OF GOOD FAITH AND
FAIR DEALING;**

**(3) VIOLATIONS OF NEVADA'S
UNFAIR CLAIMS SETTLEMENT
PRACTICES ACT, NEV. REV. STAT.
ANN. § 686A.310;**

**(4) DECLARATORY RELIEF—DUTY TO
DEFEND.**

JURY DEMAND

22
23 Plaintiff Centex Homes ("Centex") hereby alleges as follows:

24 **PARTIES**

25 1. At all times mentioned herein, Centex Homes was and is a Nevada general
26 partnership with its principal place of business in Atlanta, Georgia. The partners of Centex Homes
27 include: (a) Centex Real Estate Corporation, (b) Nomas LLC and (c) Centex International II, LLC.
28 Centex Homes is, and at all times mentioned herein, was authorized to do business in the State of

1 Nevada.

2 2. At all times mentioned herein, Nomas LLC was and is a Nevada limited liability
3 company with its principal place of business in Atlanta, Georgia. The sole member of Nomas
4 LLC is Centex International II, LLC.

5 3. At all times mentioned herein, Centex International II, LLC, was and is a Nevada
6 limited liability company with its principal place of business in Atlanta, Georgia. The sole
7 member of Centex International II, LLC is Centex LLC, which is also a Nevada limited liability
8 company with its principal place of business in Atlanta, Georgia.

9 4. At all times mentioned herein, the sole member of Centex LLC is Centex Home
10 Corporation which is a Michigan Corporation with its principal place of business in Atlanta,
11 Georgia.

12 5. At all times mentioned herein, Centex Real Estate Corporation (“Centex RE
13 Corp.”) was and is a Nevada corporation with its principal place of business in Atlanta, Georgia.
14 Centex RE Corp. is, and at all times mentioned herein, was doing business in the County of
15 Maricopa, State of Arizona.

16 6. Plaintiff is informed and believes, and on that basis alleges, that Defendant
17 ZURICH SPECIALTIES LONDON LIMITED (“Zurich London”) at all times mentioned herein
18 was and is a New York corporation with its principal place of business in New York. Upon
19 information and belief, Zurich London is and was at all times mentioned herein eligible to do
20 business as an insurer in the State of Nevada.

21 7. Plaintiff is informed and believes, and on that basis alleges, that Defendant
22 ASSURANCE COMPANY OF AMERICA (“Assurance”) at all times mentioned herein was and
23 is an Illinois corporation with its principal place of business in Illinois. Upon information and
24 belief, Assurance is and was at all times mentioned herein eligible to do business as an insurer in
25 the State of Nevada.

26 8. Plaintiff is informed and believes, and on that basis alleges, that Defendant
27 NORTHERN INSURANCE COMPANY OF NEW YORK (“Northern”) at all times mentioned
28 herein was and is an Illinois corporation with its principal place of business in Illinois. Upon

information and belief, Assurance is and was at all times mentioned herein eligible to do business as an insurer in the State of Nevada.

9. Plaintiff is informed and believes, and on that basis alleges, that Defendant ST. PAUL FIRE AND MARINE INSURANCE COMPANY (“St. Paul”) at all times mentioned herein was and is a Connecticut corporation with its principal place of business in Connecticut. Upon information and belief, St. Paul is and was at all times mentioned herein eligible to do business as an insurer in the State of Nevada.

10. Plaintiff is informed and believes, and on that basis alleges, that Defendant UNIONAMERICA INSURANCE COMPANY LIMITED, a successor in interest to ST. PAUL REINSURANCE COMPANY LIMITED (“Unionamerica”) at all times mentioned herein was and is a London, UK corporation with its principal place of business in London, UK. Upon information and belief, Unionamerica and its predecessor in interest are and were at all times mentioned herein eligible to do business as an insurer in the State of Nevada.

JURISDICTION AND VENUE

11. This Court has original jurisdiction over this action founded on diversity of citizenship pursuant 28 U.S.C. § 1332, because the matters in controversy exceed \$75,000.00, exclusive of interest and costs, and because complete diversity exists between Centex and Defendants.

12. Venue is proper in this Court in accordance with 28 U.S.C. § 1391.

GENERAL ALLEGATIONS

The Liberty Hill Estates Development

13. Centex is a homebuilder that participated in the construction of a residential development known as Liberty Hill Estates (the “Development”), which is located in Sparks, Nevada.

14. Centex performed no work on the Development; instead, subcontractors performed all of the work.

15. Mountain Aire, Inc. (“Mountain”) subcontracted with Centex to, among other things, provide heating, ventilation, and air conditioning systems in the Development.

16. Premier Landscaping (“Premier”) subcontracted with Centex to, among other things, fine grade, landscape, and provide irrigation in the Development.

17. Valley Concrete Company, Inc. (“Valley”) subcontracted with Centex to, among other things, provide concrete flatwork in the Development.

18. Western Shower Door, Inc. (“Western”) subcontracted with Centex to, among other things, provide shower doors and shower enclosures in the Development.

The Assurance and Northern Policies

19. Mountain performed work at the Developments pursuant to one or more written subcontracts that it entered into with Centex.

20. Each subcontract required Mountain to maintain commercial general liability insurance with minimum limits of \$1,000,000 combined single limit per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate, and to name “Centex Homes, a Nevada general partnership, Centex Real Estate Corporation, a Nevada corporation, and the owner of the Site if other than Centex Homes, their respective officers, directors, partners, members and employees, as additional insureds” under those insurance policies.

21. Upon information and belief, Mountain obtained the following commercial general liability policies from Assurance and Northern (“the Assurance and Northern policies”):

Insurer	Policy Number	Policy Period	Additional Insured
Northern & Assurance	SCP 38317435	4/29/01 – 4/29/05	Centex

22. The Assurance and Northern policies were endorsed to cover Centex as an “additional insured” with respect to liability arising out of Mountain’s work.

23. The coverage afforded under the Assurance and Northern policies requires Defendants Assurance and Northern to defend Centex against all claims that create potential liability for covered property damage or bodily injury.

The St. Paul Policies

24. Premier performed work at the Development pursuant to written subcontracts that it entered into with Centex.

25. Each subcontract required Premier to maintain commercial general liability insurance with minimum limits of \$1,000,000 combined single limit per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate, and to name “Centex Homes, a Nevada general partnership, Centex Real Estate Corporation, a Nevada corporation, and the owner of the Site if other than Centex Homes, their respective officers, directors, partners, members and employees, as additional insureds” under those insurance policies.

26. Premier obtained the following commercial general liability policies from St. Paul (“the St. Paul policies”):

Insurer	Policy Number	Policy Period	Named Insured	Additional Insured
St. Paul	GL08100458	11/8/03 – 11/8/08	Premier	Centex

27. The St. Paul policies were endorsed to cover Centex as an “additional insured” with respect to liability arising out of Premier’s work.

28. The coverage afforded under the St. Paul policies require Defendant St. Paul to defend Centex against all claims that create potential liability for covered property damage or bodily injury.

The Zurich London Policies

29. Western performed work at the Development pursuant to one or more written subcontracts that it entered into with Centex.

30. Each subcontract required Western to maintain commercial general liability insurance with minimum limits of \$1,000,000 combined single limit per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate, and to name “Centex Homes, a Nevada general partnership, Centex Real Estate Corporation, a Nevada corporation, and the owner of the Site if other than Centex Homes, their respective officers, directors, partners, members and employees, as additional insureds” under those insurance policies.

31. Western obtained the following commercial general liability policies from Zurich London (“the Zurich London policies”):

Insurer	Policy Number	Policy Period	Additional Insured
Zurich London	TCS 60156-00	10/1/00 – 10/1/01	Centex

Insurer	Policy Number	Policy Period	Additional Insured
Zurich London	TCS 60156-01	10/1/01 – 10/1/02	Centex
Zurich London	TCS 60156-02	10/1/02 – 10/1/03	Centex

32. The Zurich London policies were endorsed to cover Centex as an “additional insured” with respect to liability arising out of Western’s work.

33. The coverage afforded under the Zurich London policies required Defendant Zurich London to defend Centex against all claims that create potential liability for covered property damage or bodily injury.

The Unionamerica Policy

34. Valley performed work at the Development pursuant to one or more written subcontracts that it entered into with Centex.

35. Each subcontract required Valley to maintain commercial general liability insurance with minimum limits of \$1,000,000 combined single limit per occurrence, \$2,000,000 general aggregate, and \$2,000,000 products/completed operations aggregate, and to name “Centex Homes, a Nevada general partnership, Centex Real Estate Corporation, a Nevada corporation, and the owner of the Site if other than Centex Homes, their respective officers, directors, partners, members and employees, as additional insureds” under those insurance policies.

36. Valley obtained the following commercial general liability policy from Unionamerica (“the Unionamerica policy”):

Insurer	Policy Number	Policy Period	Additional Insured
Unionamerica	GL-5024-1-02-1	1/1/02 – 1/1/03	Centex

37. The Unionamerica policy was endorsed to cover Centex as an “additional insured” with respect to liability arising out of Valley’s work.

38. The coverage afforded under the Unionamerica policy required Defendant Unionamerica to defend Centex against all claims that create potential liability for covered property damage or bodily injury.

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The Story Action

39. On or about March 29, 2012, homeowners in the Development filed a first amended construction defect complaint entitled, *Susan H. Story, et al. v. Centex Homes*, Second Judicial District Court, Washoe County, Nevada, Case No. CV12-00240 (“*Story*”), against Centex alleging, among other things, that homes in the Development contained defective and negligent engineering and construction, that these defects caused damages that Centex is liable for.

40. The *Story* action seeks damages from Centex for property damage arising out of the work or ongoing operations of various subcontractors, including Mountain, Premier, Valley, and Western.

41. As a result of the claims alleged in the *Story* action, Centex has incurred significant costs, including, but not limited to, forensic, investigative, and repair costs, attorneys’ fees and other expenses.

Assurance and Northern Respond to the Story Action

42. Centex tendered the defense and indemnity of the *Story* action to Assurance and Northern on or around October 20, 2011.

43. On January 27, 2012, Assurance and Northern improperly denied their duty to defend Centex in the *Story* action under the Assurance and Northern policies issued to Mountain.

44. Pursuant to the Assurance and Northern policies, Assurance and Northern, and each of them respectively owes a duty to defend Centex and pay all of the defense fees and costs that Centex incurred in defending the *Story* action.

45. As a result of each Northern and Assurance’s failure acknowledge their respective duties to defend Centex, Centex was forced to expend significant amounts of time and money defending itself against the *Story* action.

St. Paul Responds to the Story Action

46. Centex tendered the defense and indemnity of the *Story* action to St. Paul on or around October 20, 2011.

47. On January 24, 2012, St. Paul improperly denied its duty to defend Centex in the *Story* action under the St. Paul policies issued to Premier.

1 48. As a result of St. Paul's conduct, Centex was forced to expend significant amounts
2 of time and money defending itself against the *Story* action.

3 49. Pursuant to the St. Paul policies, St. Paul owes a duty to defend Centex and pay all
4 of the defense fees and costs that Centex incurred in defending the *Story* action.

5 **Unionamerica Responds to the *Story* Action**

6 50. Centex tendered the defense and indemnity of the *Story* action to Unionamerica on
7 or around October 20, 2011.

8 51. Over two years later, on October 30, 2013, Unionamerica agreed to defend Centex.
9 However, since that time, Unionamerica has limited its obligation to pay defense fees and costs in
10 the *Story* action to only a portion of the total defense fees and costs it owes.

11 52. To date, Unionamerica has paid approximately \$138,399.92 towards Centex's
12 defense costs in the *Story* action.

13 53. Pursuant to the Unionamerica policy, Unionamerica owes a duty to defend Centex
14 and pay all of the defense fees and costs that Centex incurred in defending the *Story* action.

15 54. As a result of Unionamerica's failure to fully defend Centex, Centex was forced to
16 expend significant amounts of time and money defending itself against the *Story* action.

17 **Zurich London Responds to the *Story* Action**

18 55. Centex tendered the defense and indemnity of the *Story* action to Zurich London or
19 around October 20, 2011.

20 56. On April 17, 2012, Zurich London improperly denied its duty to defend Centex in
21 the *Story* action under the Zurich London policies.

22 57. Pursuant to the Zurich London policies, Zurich London owes a duty to defend
23 Centex and pay all of the defense fees and costs that Centex incurred in defending the *Story* action.

24 58. As a result of Zurich London's failure to acknowledge its duty to defend Centex,
25 Centex was forced to expend significant amounts of time and money defending itself against the
26 *Story* action.

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FIRST CAUSE OF ACTION

Breach of Contract

(By Centex Against All Defendants)

59. Centex realleges the allegations contained in paragraphs 1 through 58, inclusive, and incorporates them by reference as though fully set forth herein.

60. Centex requested that Defendants defend Centex against the *Story* action as described more fully above. Centex has performed all obligations owing under each of the policies in connection with its tender of defense, and Centex has satisfied all relevant conditions precedent.

61. Defendants have failed to discharge their contractual duties to defend Centex against the *Story* action. More particularly, Defendants: (1) breached their contracts by failing to promptly respond to Centex's tenders; and (2) breached their contracts by refusing to defend Centex.

62. As a direct and proximate result of Defendants' conduct as alleged in this Complaint, Centex has been damaged in an amount to be proven at trial.

SECOND CAUSE OF ACTION

Breach of the Implied Covenant of Good Faith and Fair Dealing

(By Centex Against All Defendants)

63. Centex realleges the allegations contained in paragraphs 1 through 62, inclusive, and incorporates them by reference as though fully set forth herein.

64. Defendants owe Centex a duty of good faith and fair dealing, obligating Defendants to put Centex's interests equal with or ahead of their own interests and to do nothing to deprive Centex of policy benefits.

65. Rather than honor their obligations, Defendants have instead sought to protect their own interests and have subordinated Centex's interests by refusing to discharge contractual duties without reasonable grounds or good cause.

66. In addition, Defendants have acted with knowledge or reckless disregard of the lack of a reasonable grounds or good cause.

1 67. Accordingly, Defendants have deprived Centex of its rights and benefits under their
2 policies. For example:

3 a. Pursuant to clearly applicable law, Defendants have a duty to promptly
4 investigate and respond to Centex's tenders and indicate whether they would defend Centex
5 against the *Story* action. Defendants understand and are fully aware of this duty. Despite their
6 knowledge of this obligation, Defendants have failed to respond to Centex's tenders in a timely
7 fashion, or at all. On information and belief, these delays violate Defendants' own internal
8 policies. To further delay making coverage decisions and avoid assuming the financial burden of
9 defending Centex, on some occasions Defendants requested documents that Centex had already
10 supplied to Defendants so as to force Centex to continue defending itself and incur costs without
11 Defendants' support. Defendants delayed rendering coverage decisions in conscious disregard of
12 the risk that these delays would jeopardize Centex's ability to adequately defend itself against the
13 *Story* action, and would jeopardize Centex's ability to settle those matters. Defendants' decisions
14 to delay responding to Centex's tenders were motivated by a desire to unfairly enhance their own
15 profits by avoiding contractual obligations and ignoring the contractual rights and economic
16 interests of Centex. Defendants acted in a deliberate and concerted fashion to achieve this self-
17 serving economic objective. Defendants' conduct in this regard tortiously breaches the duty of
18 good faith and fair dealing owed to Centex, and recklessly disregards Centex's economic and
19 property rights.

20 b. Pursuant to clearly applicable law, Defendants have a duty to defend
21 additional insureds, like Centex, for claims alleging potential for liability arising out of the work
22 or ongoing operations of their named insureds. Defendants understand and are fully aware of this
23 duty. Despite knowledge of this obligation, Defendants routinely attempt to avoid this obligation
24 by taking arbitrary and capricious coverage positions. More specifically, despite knowledge of the
25 terms of their insurance policies, additional-insured endorsements, the relevant case law, and the
26 facts alleged in *Story* action, Defendants refused to acknowledge their duties to defend Centex
27 against the *Story* action, even though most Defendants readily acknowledged this duty to their
28 own named insureds in each of these cases. Defendants consistently and intentionally treat Centex

1 and other additional insured differently from named insured with respect to the degree of
2 investigation undertaken, the coverage positions Defendants' assert and the defense they are
3 willing to provide. Likewise, Defendants took coverage positions in the *Story* action that are
4 inconsistent with positions they took in other identical cases and situations. Defendants' decisions
5 to deny or delay responding to Centex's tenders were motivated by a desire to enhance unfairly
6 their own profits by avoiding contractual obligations and ignoring the contractual rights and
7 economic interests of Centex. Defendants acted in a deliberate and concerted fashion to achieve
8 this self-serving economic objective. Defendants' conduct in this regard tortiously breaches the
9 duty of good faith and fair dealing owed to Centex, and recklessly disregards Centex's economic
10 and property rights.

11 c. Pursuant to clearly applicable law, Defendants have a duty to fully defend
12 Centex, as opposed to only providing Centex with a proportional or partial defense based on the
13 liability of their named insureds. Defendants understand and are fully aware of this duty. Despite
14 Defendants' knowledge that they have a duty to fully defend Centex against the *Story* action
15 pursuant to clearly applicable law, Defendants unreasonably refused to do so. These refusals were
16 motivated by a desire to enhance unfairly Defendants' own profits by avoiding contractual
17 obligations and ignoring the contractual rights and economic interests of Centex. Defendants
18 acted in a deliberate and concerted fashion to achieve this self-serving economic objective.
19 Defendants' conduct in this regard tortiously breaches the duty of good faith and fair dealing owed
20 to Centex, and recklessly disregards Centex's economic and property rights.

21 68. Defendants' conduct as alleged in this Complaint is part of a pattern of unfair
22 claims practices intentionally engaged in by Defendants to enhance unfairly their own profits by
23 avoiding contractual obligations and ignoring the contractual rights and economic interests of
24 Centex and other additional insureds. These systematic practices include: (1) failing to respond
25 promptly to tenders from additional insureds; (2) wrongfully denying additional insureds coverage
26 owed under policies; and (3) refusing to supply a full defense to additional insureds as required by
27 law and instead trying to limit coverage obligations to funding only a small fraction of the
28 additional insured's defense.

1 69. As a direct and proximate result of Defendants' tortious breach of the duty of good
2 faith and fair dealing, Centex has suffered damages in an amount to be proven at trial, including
3 without limitation, legal costs incurred to obtain the benefits of the respective policies.

4 70. In addition, Defendants' conduct as alleged in this Complaint is despicable and has
5 been carried out in willful and conscious disregard of Centex's rights and economic interests, and
6 is malicious, fraudulent and oppressive. Accordingly, Defendants' conduct entitles Centex to
7 punitive damages.

8 71. Defendants' malicious, fraudulent, and oppressive conduct includes, for example:

9 a. As described above, Defendants were fully aware of their duty to promptly
10 investigate and respond to Centex's tenders and indicate whether Defendants would defend Centex
11 against the *Story* action, but Defendants delayed responding to Centex's tenders and ignored
12 Centex's numerous requests. Defendants knew that failing to promptly respond to Centex's
13 tenders and defend it would violate Centex's contractual rights and jeopardize Centex's ability to
14 successfully defend itself against the *Story* action, but Defendants did so anyway in willful and
15 conscious disregard of Centex's rights.

16 b. As described above, Defendants are fully aware of their duty to defend
17 additional insureds, like Centex, against claims alleging potential liability arising out of the work
18 of their named insureds, but routinely attempt to avoid these obligations by treating additional
19 insured differently from named insureds. Defendants know this behavior violates the rights of
20 additional insureds, like Centex, but Defendants intentionally try to deprive additional insureds,
21 like Centex, of policy benefits in order to unfairly enhance their own profits.

22 c. As described above, Defendants were fully aware of their duty to fully
23 defend Centex as opposed to only providing a proportional or partial defense based on the liability
24 of their named insureds. Defendants knew that failing to provide Centex with a full defense would
25 violate its contractual rights, but Defendants intentionally claimed their duties were partial in
26 willful violation of their contractual duties.

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THIRD CAUSE OF ACTION

Violations of Nevada's Unfair Claims Settlement Practices Action,

Nev. Rev. Stat. Ann. § 686A.310

(By Centex Against All Defendants)

72. Centex realleges the allegations contained in paragraphs 1 through 71, inclusive, and incorporates them by reference as though fully set forth herein.

73. Defendants' conduct constitutes a violation of one or more of the following sub-sections of Nev. Rev. Stat. Ann. § 686A.310:

a. Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

b. Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims under insurance policies.

c. Failing to affirm or deny coverage of claims within a reasonable time after proof of loss requirements have been completed and submitted by the insured.

d. Failing to effectuate prompt, fair and equitable settlements of claims in which liability of the insurer has become reasonably clear.

e. Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds when the insureds have made claims for amounts reasonably similar to the amounts ultimately recovered.

f. On information and belief, Defendants have engaged in other conduct in the handling of the *Story* action that constitutes unfair practices under other provisions of NRS 686A.310.

74. As a direct and proximate result of Defendants' violations of Nev. Rev. Stat. Ann. § 686A.310, Centex has sustained damages in an amount within the jurisdictional limits of this Court, including, but not limited to, punitive damages.

75. As a direct and proximate result of Defendants' violations of Nev. Rev. Stat. Ann. § 686A.310, Centex has incurred attorneys' fees, court costs and other expenses in bringing this

1 action.

2 **FOURTH CAUSE OF ACTION**

3 **(Declaratory Relief)**

4 76. Centex realleges the allegations contained in paragraphs 1 through 75, inclusive,
5 and incorporates them by reference as though fully set forth herein.

6 77. An actual controversy has arisen and now exists between Centex, on the one hand,
7 and Defendants, on the other hand, in that Centex contends that under the respective policies
8 issued by each Defendant, each Defendant owes a separate and independent duty to promptly and
9 fully defend Centex in the *Story* action.

10 78. Centex is informed and believes that Defendants contend otherwise.

11 79. Centex desires a judicial determination as follows:

12 a. that each Defendant owes a separate and independent duty to defend Centex
13 against the *Story* action;

14 b. that the scope of this duty is to provide Centex with an immediate and full
15 defense;

16 c. that the obligations of any one Defendant to provide Centex with an
17 immediate and full defense is not diminished or reduced when other Defendants owe Centex this
18 same duty.

19 80. A declaratory judgment is both proper and necessary so that the respective rights,
20 duties, and obligations of Centex and Defendants may be determined.

21 **PRAYER**

22 WHEREFORE, Centex prays for judgment against Defendants as follows:

23 1. **FIRST CAUSE OF ACTION:**

24 a. For general and specific damages in an amount to be proven at trial;

25 b. For all costs and expenses at the full extent permitted by law;

26 c. For pre-judgment interest and post-judgment interest at the full extent
27 permitted by law;

28 d. For attorneys' fees to the extent recoverable by applicable law; and

e. For such other and further relief as the Court deems fair and proper.

2. **SECOND CAUSE OF ACTION:**

a. For general and specific damages in an amount to be proven at trial;

b. For punitive damages at the full extent permitted by law;

c. For all costs and expenses at the full extent permitted by law;

d. For pre-judgment interest and post-judgment interest at the full extent permitted by law;

e. For attorneys' fees to the extent recoverable by applicable law; and

f. For such other and further relief as the Court deems fair and proper.

3. **THIRD CAUSE OF ACTION:**

a. For general and specific damages in an amount to be proven at trial;

b. For punitive damages at the full extent permitted by law;

c. For all costs and expenses at the full extent permitted by law;

d. For pre-judgment interest and post-judgment interest at the full extent permitted by law;

e. For attorneys' fees to the extent recoverable by applicable law; and

f. For such other and further relief as the Court deems fair and proper.

4. **FOURTH CAUSE OF ACTION:**

a. For declaratory relief as described above;

b. For all costs and expenses at the full extent permitted by law;

c. For pre-judgment interest and post-judgment interest at the full extent permitted by law;

d. For attorneys' fees to the extent recoverable by applicable law; and

e. For such other and further relief as the Court deems fair and proper.

JURY DEMAND

Centex hereby demands a trial by jury.

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DATED: June 8, 2016

Respectfully submitted,

PAYNE & FEARS LLP

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